

Appl. No. : 10/693,815
Filed : October 24, 2003

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REMARKS

In the Office communication of October 3, 2006, the Examiner identified the following inventions, considered patentably distinct:

- I. Claims 1-16, drawn to a method of stabilizing adjacent vertebrae, classified in class 606, subclass 61.
- II. Claims 17-38, drawn to a method of treating adjacent vertebrae, classified in class 606, subclass 86.
- III. Claim 39, drawn to a system, classified in class 606, subclass 80.

The Examiner required restriction under 35 U.S.C. § 121 to one of these inventions.

Furthermore, the Examiner identified the following figures, considered to be patentably distinct species:

Fig. Nos.	Species
38	1
41	2
42	3
43	4
44	5
45	6

The Examiner required election of a single species upon election of one of the groups of inventions under 35 U.S.C. § 121 for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner identified Claims 17 and 19-22 as generic.

Applicant elects, without traverse, to prosecute the claims directed to Invention II directed to the species identified by the Examiner as Species 5 (as illustrated in at least Figure 44) in the present application. Applicant reserves the right to pursue claims to the nonelected Inventions I and III as well as the claims to the nonelected Species 1-4 and Species 6 in one or more divisional applications. Accordingly, the claims to the non-elected inventions and species, Claims 1-16, 23-28, 32-33 and 39, are withdrawn from prosecution in the present application. Applicant amends Claim 36. The remaining pending claims for consideration, 17-22, 29-31, and 34-38, all read on the elected species.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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Respectfully submitted,

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